

1
2
3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

5 * * *

6 ROBERT E. PARKES,

Case No. 3:18-cv-00263-MMD-CLB

7 Plaintiff,

ORDER

8 v.

9 ISIDRO BACA, *et al.*,

10 Defendants.

11 *Pro se* Plaintiff Robert E. Parkes brings this action under 42 U.S.C. § 1983 for
12 events that took place while he was incarcerated at Northern Nevada Correctional Center.
13 (ECF No. 5.) Before the Court is the Report and Recommendation (“R&R” or
14 “Recommendation”) of United States Magistrate Judge Carla L. Baldwin (ECF No. 63),
15 recommending the Court deny Defendants’ motion for summary judgment (ECF No. 56
16 (“Motion”)).¹ The parties had until October 15, 2020, to file an objection. To date, no
17 objection to the R&R has been filed. For this reason, and as explained below, the Court
18 adopts the R&R, and will deny the Motion.

19 The Court “may accept, reject, or modify, in whole or in part, the findings or
20 recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party
21 fails to object to a magistrate judge’s recommendation, the Court is not required to
22 conduct “any review at all . . . of any issue that is not the subject of an objection.” *Thomas*
23 *v. Arn*, 474 U.S. 140, 149 (1985); *see also United States v. Reyna-Tapia*, 328 F.3d 1114,
24 1116 (9th Cir. 2003) (“De novo review of the magistrate judges’ findings and
25 recommendations is required if, but *only* if, one or both parties file objections to the
26 findings and recommendations.”) (emphasis in original); Fed. R. Civ. P. 72, Advisory
27

28 ¹Parkes responded (ECF No. 59) and Defendants replied (ECF No. 60).

1 Committee Notes (1983) (providing that the Court “need only satisfy itself that there is no
2 clear error on the face of the record in order to accept the recommendation.”).

3 Because there is no objection, the Court need not conduct de novo review, and is
4 satisfied Judge Baldwin did not clearly err. As Judge Baldwin notes, this is the second
5 motion for summary judgment filed in this matter. (ECF No. 63 at 6-7.) Although the Court
6 denied the previous summary judgment motion without prejudice, the instant Motion has
7 failed to remedy the prior motion’s flaws and contains several errors, including a failure
8 to reattach exhibits in support of the instant Motion and several citations to exhibits which
9 do not exist. (*Id.* at 7.) Judge Baldwin considered the available options provided by
10 Federal Rule of Civil Procedure 56(e), which addresses when a party fails to properly
11 support or address a fact in a motion for summary judgment, and subsequently concluded
12 that because Defendants have already had one opportunity to file a proper summary
13 judgment motion, such relief is not warranted here. (*Id.*) The Court agrees. Defendants
14 have failed to carry their burden of demonstrating an absence of genuine dispute, and
15 therefore the Motion should be denied. Having reviewed the R&R and the record in this
16 case, the Court will adopt the R&R in full.

17 It is therefore ordered that Judge Baldwin’s Report and Recommendation (ECF
18 No. 63) is accepted and adopted in full.

19 It is further ordered that Defendants’ motion for summary judgment (ECF No. 56)
20 is denied.

21 DATED THIS 20th Day of October 2021.

22
23 

24 MIRANDA M. DU
25 CHIEF UNITED STATES DISTRICT JUDGE
26
27
28